

R E M A R K S

Claims 1-6 are pending in the application with claim 2 being withdrawn, claims 1 and 3-5 being amended herein. Support for new claim 6, as well as the amendments to claims 1, 3 and 4 may be found throughout the specification and in particular in Examples 2 and 3, which describe extraction using methanol.

Claim Objections

Claim 5 has been objected to for having grammatical informalities. Claim 5 has been amended as suggested by the Examiner to “limit” to “limits” and “were” to “are”. Withdrawal of the objection is respectfully requested.

Claim Rejections under 35 USC§112, 2nd paragraph

Claims 1 and 3-5 have been rejected under 35 U.S.C. §112, 2nd paragraph as indefinite in the recitation of “specially”. Claims 1 and 3-4 have been amended to delete “specially”. Withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 USC§112, 1st paragraph

Claims 1 and 3-5 have been rejected under 35 U.S.C. §112, 1st paragraph for lack of written description. The Examiner indicates that the “60 degree” limitation in the claims is not supported by the specification, which uses “80°” instead. Claims 1 and 3-4 have been amended to correct the error and replace “60°C” with “80°C”.

Claim Rejections under USC §102/103 - Chou, et. al.

Claims 1 and 3-5 are rejected as being anticipated by or obvious over Chou et al. For claims 1 and 3-5, the Examiner contends that the present product-by-process extract is inherently the same or obvious over that disclosed in Chou et al. The Examiner asserts that Chou et al. is also made by extraction with 95% ethanol 3-5 times. See “Preparation of sample solution” on page 41.

The instant claims have been amended to further define the invention as using at least methanol for the extraction of the extract. There is no disclosure in Chou et al. in using methanol for the extraction step. Using methanol in the extraction results in a different product than that obtained in Chou et al. As such, the instant invention is not anticipated by Chou et al. and withdrawal of the rejection is respectfully requested.

Claim Rejections under USC §102/103 — US Patent 6,218,541

Claims 1-5 have been rejected under 35 U.S.C. §§102/103 as being anticipated by or obvious over US Patent No. 6,218,541. The analysis for the rejection is essentially the same as that used by the Examiner for Chou et al.

The Examiner relies specifically on the disclosure in US ‘541 in column 2, which refers to a prior art method extraction that is disclosed in Xiao Chong-Hou et al.; Chinese Medication Chemistry, Trial Edition Textbook of Medical College and Pharmacy College, Shanghai Science and Technique Press, 1987. Applicants traverse this rejection and withdrawal thereof is respectfully requested.

As discussed above, the present claims have been amended to include the feature of using methanol to extract the preparation of the invention. As described in column 2 of US ‘541 and as illustrated in Figure 1 of the ‘541 patent, there was no disclosure or suggestion in the method of Xiao Chong-Hou et al. of using methanol to prepare an extraction product. Using methanol in the extraction results in a different product than that obtained in Xiao Chong-Hou et al. As such, the instant invention is not anticipated by or obvious over US ‘541 and withdrawal of the rejection is respectfully requested.

In view of the above amendment, Applicants believe the pending application is in condition for allowance. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, Ph.D., Reg. No. 40,069 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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